

**The "Iron Curtain" Statute — Its Constitutionality  
And Purpose Upheld**

**FALICJA MAZUROWSKI, PETITIONER**  
1954 A. S. 35 - January 7, 1954

CPYRGHT

By GUY NEWHALL

A resident of Springfield died in 1942, leaving as his heirs a widow and three children in Poland. A public administrator was appointed and in 1944, upon his petition for distribution, was ordered to deposit the money in the savings bank for their benefit. Subsequently the four heirs, all Polish nationals, filed petitions to have the money paid to them. The petitions were filed by the consul general of Poland, who claimed "jurisdiction" over Massachusetts. He also claimed the right to act for the petitioners, both by virtue of his consular office and by virtue of powers of attorney executed by them and authenticated in Poland. The probate judge, under the authority of G.L. 206, §27A (the Iron Curtain statute, enacted by St. 1950, 265), made an order requiring the appearance of the petitioners in court in person, and ordered the cases continued until they appeared.

The consul general contended that the order of the court was in contravention of the treaty with Poland (July 10, 1933), and that the statute was unconstitutional because the treaty became the supreme law of the land and its terms gave consular officers the right to appear for their nationals in the administration of estates and to collect and receipt for their distributive shares.

*Held:* Order of the probate judge affirmed. The Polish treaty was terminated January 5, 1952, and all special privileges of consular officers ceased.

The claim of the consul general that the treaty created property rights which survived its termination could not be sustained. While the treaty did provide that the nationals of either country should have full power to dispose of their personal property, and their heirs, etc., should succeed to their rights and could take possession, either themselves or by others acting for them, this did not give the widow and next of kin a paramount right to seize their shares regardless of the laws of the Commonwealth providing for the orderly distribution of estates of deceased persons domiciled here.

The court then discussed the question whether the iron curtain statute was any more than a reasonable regulation of the distribution of estates, and held that it was not. It pointed out that money sent to Poland is con-

verted into Polish zlotys at the rate of four zlotys to the dollar, while the actual free rate of exchange is twenty zlotys to the dollar, or better. This means that the Polish government confiscates 80% of every remittance. The court also referred to a United States law permitting checks and warrants for money to be sent to other countries only where banking and other conditions are such that the recipient will actually get them and will be able to negotiate the check or warrant for its full value. The Secretary of the Treasury has said that these conditions do not exist behind the iron curtain (including Poland). There is no reason to think that money sent through the consul would meet with any better fate. Accordingly §27A seemed to be a reasonable and valid regulation, even though, as in this case, the statute was passed after the death of the decedent. The statute does not discriminate against Polish nationals. It would apply equally to a United States national residing in Poland. The order to deposit the money in the bank until the claimant appears personally is only temporary, not permanent. Conditions may change so that the order can be revoked. At the present time it does not seem to be so much a deprivation of the property rights of the petitioners as a protection.

(NOTE — in this case, as there was no party opposing the petitions, the probate judge of his own volition made inquiries as to the facts regarding remittances to Poland.)

### **Announcement of Memorial to Mr. Justice Charles H. Donahue**

On Thursday, April 29, at 10:00 A.M., a Memorial Ceremony to Mr. Justice Charles Henry Donahue will be held in the full bench courtroom of the Supreme Judicial Court.

### **New Dues Schedule**

At the meeting of the Council February 4, 1954, it was voted to increase the dues (following study and report by a special committee) in accordance with the following schedule:

<i>Class</i>	<i>Old</i>	<i>New</i>
Senior Class (over 10 years)	\$15.00	\$20.00
Five to Ten-year Class	8.00	10.00
Three to Five-year Class	4.00	5.00
Less than Three-year Class	2.00	2.50
Associate	5.00	7.00